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OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Lei et al. :
Application No. 10/763,583 : DECISION ON PETITION
Filed: 23 January, 2004 :
Attorney Docket No. 50277-2408 :

This is a decision on the petition filed on 20 October, 2004, requesting that the above-identified application be accorded a filing date which is treated as a petition requesting that above-identified application, including two (2) sheets of drawings, be accorded a filing date of 23 January, 2004.

The petition is granted.

On 23 January, 2004, the application was filed.

On 6 October, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on 20 October, 2004, the present petition and a copy of two (2) sheets of drawings, were filed. Petitioners argue that two (2) drawing sheets was filed with the other application papers on 23 January, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office stamp dated 23 January, 2004, and showing the above-identified application number, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, two (2) sheets

of drawings. Petitioners request that the application, including the two (2) sheets of drawings, be accorded a filing date of 23 January, 2004.

A review of the record reveals that no sheets of drawings received on 23 January, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 23 January, 2004, included two (2) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets of drawings, is entitled to a filing date of 23 January, 2004.

In view of the above, the petition is granted. The petition fee of \$130.00 will be credited to counsel's deposit account, No. 50-1302.

The application will be processed with the copy of the two (2) sheets of drawings supplied on 20 October, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 23 January, 2004, using the application papers filed on that date, and the copy of two (2) sheets of drawings supplied with the present petition, and for an indication in Office records that two (2) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

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